

CASE NO: 1:10-CV-1259

JUDGE DONALD C. NUGENT

y.

ORDER ADOPTING REPORT AND RECOMMENDATION

Defendant.

This matter comes before the Court upon the Report and Recommendation of Magistrate Judge Nancy A. Vecchiarelli. The Report and Recommendation (ECF # 15), issued on July 28, 2011, is hereby ADOPTED by this Court. Plaintiff sought judicial review of the Social Security Commissioner's final decision denying her application for Supplemental Security Income under Title XVI of the Social Security Act, 42 U.S.C. §§ 423 and 1381. Magistrate Judge Vecchiarelli found that the ALJ's decision was supported by substantial evidence and that the ALJ applied the appropriate legal standards. Ms. Maldonado timely filed her objections to the Magistrate Judge's Report and Recommendation. (ECF #16).


The Court has reviewed *de novo* those portions of the Magistrate Judge's Report and Recommendation to which objections have been made. *See* FED. R. CIV. P. 72(b). The Court finds that Plaintiff's objections raise no arguments that have not been fully addressed by the Magistrate Judge's Report and Recommendation. Ms. Maldonado alleged disability stemming

from diabetes, cholesterol, depression, hypertension, possible breast cancer, and ailments involving her spine, vision, nerves, and right kidney.(ECF #15 at 1). The record supports the observation that both Dr. House's and Dr. Vazquez's assessments of Ms. Maldonado were based primarily from her own self-diagnosis. In her objection, Plaintiff's counsel correctly points out that the two consultative examiners' opinions were based upon "observations, expertise, and clinical judgment." (ECF #16 at 1). As conceded by this statement, and pointed out by Magistrate Judge Vecchiarelli, Dr. House and Dr. Vazquez did not formulate opinions using objective medical data. In light of this, the opinions are not entitled to probative weight. Jones v. Secretary of Health and Human Services, 945 F.2d 1365, 1370 (6th Cir. 1991). Furthermore, and contrary to counsel's assertion (ECF #16 at 1), Dr. House and Dr. Vazquez had contradicting opinions on several findings. These findings were also contrary to other evidence in the record, including the assessments of Julie Yacobucci. Contradictions afford the ALJ latitude in assigning the proper weight to consultative examiners' findings. Id. The Court finds Magistrate Judge Vecchiarelli's Report and Recommendation to be thorough, well-written, well-supported, and correct on all of the issues addressed therein.

The Magistrate Judge's Report and Recommendation fully and correctly addresses all of the Plaintiff's claims and the Plaintiff's objections are unwarranted. The Court, therefore, adopts the Report and Recommendation in its entirety. Further, the Court certifies, pursuant to 28 U.S.C. §1915(a)(3), that an appeal from this decision could not be taken in good faith, and there is no basis upon which to issue a certificate of appealability. 28 U.S.C. §2253 (c); FED. R. APP. P. 22(b). The Social Security Administration's final decision denying Ms. Maldonado's application for Supplemental Security Income is AFFIRMED.

IT IS SO ORDERED.

DATED: August 31, 2011


DONALD C. NUGENT
United States District Judge